



# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the House Principles.

### B. EFFECT OF PROPOSED CHANGES:

#### Present Situation

##### *Per Diem and Subsistence Allowances*

Sections 112.061, F.S., governs the per diem and travel expenses of agencies' public officers, employees, and authorized persons. "Agencies" are defined as any office, department, agency, division, subdivision, political subdivision, board, bureau, commission, authority, district, public body, body politic, county, city, town, village, municipality, or other separate unit of government created by law.<sup>1</sup> It places a variety of conditions on the travel that may be paid and what amounts may be paid.

The Florida Statutes list three types of travel: Class A, B, and C.

- Class A travel is continuous travel of 24 hours or more away from official headquarters.<sup>2</sup> The travel day for Class A is based on a calendar day (midnight to midnight). The per diem allowance for Class A travel is currently \$50.00.<sup>3</sup>
- Class B travel is continuous travel of less than 24 hours which involves overnight absence away from official headquarters.<sup>4</sup> The per diem is \$50.00, pro-rated based on 6-hour periods; for instance, an overnight traveler returning at noon could receive \$25.00 per diem.
- Class C travel is short or day trips in which the traveler is not away from his or her official headquarters overnight.<sup>5</sup>

The Legislature set the per diem and subsistence allowances in 1981; the amounts have been unchanged since then.<sup>6</sup> Adjusted for inflation, the value of the per diem in 2005 would be \$88.62 and the values of the subsistence allowances in 2005 would be \$5.32, \$10.63, and \$21.27<sup>7</sup>

##### *Mileage*

Travelers using privately-owned vehicles are entitled to a mileage allowance of 29 cents per mile or the common carrier fare for the travel, as determined by the agency head.

#### Proposed Changes

The bill creates distinctions between "state agencies" and "nonstate agencies" and "state travelers" and "nonstate travelers"; however, the bill does not define the terms.

The bill changes:

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<sup>1</sup> Section 112.061(2)(a).

<sup>2</sup> Section 112.061(2)(k).

<sup>3</sup> However, if actual expenses exceed the allowable per diem, the amount allowed for meals for Class C travelers, plus actual expenses for lodging at a single occupancy rate may be paid.

<sup>4</sup> Section 112.061(2)(l).

<sup>5</sup> Section 112.061(2)m). Section 112.061(5)(d) barred Class C travelers from receiving either per diem or subsistence allowances during the 2004-2005 fiscal year.

<sup>6</sup> *West's Florida Statutes Annotated*

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- The per diem allowances to a range between \$50 and \$96 for state travelers and up to \$96 for nonstate travelers.
- The subsistence allowances to a range of \$3 to \$5 for breakfast, \$6 to \$11 for lunch, and \$12 and \$23 for dinner for state travelers and up to \$5, \$11, and \$23 for breakfast, lunch, and dinner respectively for nonstate travelers.
- The mileage allowance to a range of 29 to 38 cents per mile for state travelers and up to 38 cents per mile for nonstate travelers.

The bill provides that per diem, subsistence, and mileage allowances shall remain the same through FY 2004-05. Annually on June 1, the Department of Financial Services is to adjust by rule the maximum and minimum amounts of the per diem, subsistence, and mileage ranges to reflect changes in the Consumer Price Index. Additionally, annually on or before June 30, each Cabinet officer, the Governor, the presiding officers of the Legislature, and the Chief Justice is to establish uniform amounts that apply to the agencies under their control.

C. SECTION DIRECTORY:

Section 1 amends s. 112.061, F.S., to provide revised per diem, subsistence, and mileage allowances for travelers and procedures for adjusting these amounts annually.

Section 2 provides an effective date of June 1, 2005.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None. This bill does not create, modify, amend, or eliminate a state revenue source.

2. Expenditures:

Indeterminate. The public officers responsible for setting allowances would not be required but could choose to increase the per diem, subsistence, and mileage they paid to their travelers. It is unknown which, if any, of the public officers responsible for setting allowances would choose to increase the allowances and by what amount.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None. This bill does not create, modify, amend, or eliminate a local revenue source.

2. Expenditures:

Indeterminate. Local governments would not be required but could choose to increase or decrease the per diem, subsistence, and mileage they pay to their travelers. It is unknown which local governments would choose to change their allowances and by what amount.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR: Indeterminate since it is unknown the degree to which agencies will change the allowances or to which travelers will adjust their spending. If agencies increase the allowances, some travelers may increase their spending while traveling and businesses such as restaurants would benefit. However, for travelers who have been supplementing the payment with their personal funds, the increased allowances may fully or partially supplant the personal spending with the result of lesser or no net increase in spending by those travelers. Similarly, if local governments chose to decrease their allowances, travelers may choose to either reduce

spending, which would negatively impact businesses, or partially or fully supplant the reduced allowances with personal funds, which could have lesser or no negative impact.

**D. FISCAL COMMENTS:**

Last year, Senate staff estimated the fiscal impact of raising the per diem, subsistence, and mileage allowances to the maximum levels allowed in this bill to be approximately \$24 million for state agencies and \$13 million for universities. This was based on assuming that of the \$93.8 million in state agency travel and \$51.5 million in university travel expended in FY 2002-03, 9.6% was for per diem, 6.9% was for subsistence, and 36% was for mileage.<sup>7</sup>

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

**1. Applicability of Municipality/County Mandates Provision:**

The bill does not require counties or municipalities to provide higher allowances to travelers. Additionally, Attorney General Opinion 2003-01 noted that the travel reimbursement rates established in s. 122.061, F.S., are considered, pursuant to the stated legislative intent of subsection (1), to be maximum rates; local governments may legislate on the subject of allowances, though they may not exceed them. Municipalities and their agencies may also exempt themselves from the provisions of s. 112.061, F.S., by creating its own per diem and travel expense policy and thus are not bound by the provisions of s. 112.061, F.S.<sup>8</sup> Thus this bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. This bill does not reduce the percentage of a state tax shared with counties or municipalities. This bill does not reduce the authority that counties and municipalities have to raise revenue.

**2. Other:**

None.

**B. RULE-MAKING AUTHORITY:**

None.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

The terms "state agency," "state traveler," "nonstate agency," and "nonstate traveler" are not defined in either the bill or law. Defining these terms may clarify which entities belong in which group.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES**

N/A.

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<sup>7</sup> Percentage breakdowns based on 2004 analysis by the Agency for Health Care Administration of its travel spending. Data on total travel spending provided by the Senate Committee on Governmental Oversight & Productivity by the Department of Financial Services.

<sup>8</sup> Section 166.021(10), F.S.